

Practitioner's Docket No 42108/25508

## DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

### TYPE OF DECLARATION

This declaration is of the following type:

- ☒ original.
- ☐ design.
- ☐ supplemental.
- ☐ national stage of PCT.
- ☐ divisional.
- ☐ continuation.
- ☐ continuation-in-part (C-I-P).

### INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor of the subject matter that is claimed, and for which a patent is sought on the invention entitled

### TITLE OF INVENTION

PHARMACOLOGICAL AGENT AND METHOD OF TREATMENT

### SPECIFICATION IDENTIFICATION

the specification of which:

- (a) ☐ is attached hereto.
- (b) ☒ was filed on 2/15/01 Serial No. 09/784,631.
- (c) ☐ was described and claimed in PCT International Application No. , filed on and as amended under PCT Article 19 on (if any).

### ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56,

- ☒ and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and
- ☐ in compliance with this duty, there is attached an information disclosure statement, in accordance with 37 C.F.R. § 1.98.

I hereby claim foreign priority benefits under Title 35, United States Code, §§ 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United

States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

- (d) ☒ no such applications have been filed.  
(e) ☐ such applications have been filed as follows.

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)**  
(34 U.S.C. § 119(e))

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

**PROVISIONAL APPLICATION NUMBER**

60/182,608

**FILING DATE**

February 15, 2000

**POWER OF ATTORNEY**

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Gregory E. Upchurch, No. 28,482; Grant D. Kang, No. 37,651; Caroline G. Chicoine, No. 38,198; Dennis JM Donahue, III, No. 43,591; Robert C. Haldiman, No. 45,437; Ahaji J. Kirk, No. 46,831; Paul A. Lesko, No. 45,364

- ☒ I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.  
☐ Attached, as part of this declaration and power of attorney, is the authorization of the above-named practitioner(s) to accept and follow instructions from my representative(s).

**SEND CORRESPONDENCE TO**

**DIRECT TELEPHONE CALLS TO:**  
(Name and telephone number)

- ☒ Address

Ahaji J. Kirk, 314-552-6123

Caroline Chicoine

c/o Ahaji J. Kirk

Thompson Coburn LLP, One Firststar Plaza, St. Louis, MO 63101

- ☒ Customer Number 021888

**DECLARATION**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**SIGNATURES**

**Full name of sole inventor**

Jose \_\_\_\_\_ A. \_\_\_\_\_ Fernandez-Pol \_\_\_\_\_  
(GIVEN NAME) (MIDDLE INITIAL OR NAME) FAMILY (OR LAST NAME)

**Inventor's signature** inventor refuses to sign, see attached signature and accompanying petition under 37 C.F.R. § 1.47

**Date** \_\_\_\_\_ **Country of Citizenship** USA

**Residence** Chesterfield, MO 63017

**Post Office Address** 437 Hunters Hill Drive, Chesterfield, MO 63017

A signature is provided below by the Assignee of U.S. Patent Application Serial Number 09/784,631 under 37 C.F.R. §1.47 due to the inventor's refusal to sign. Please see accompanying petition under 37 C.F.R. § 1.47.

**Full name of Assignee**

Novactyl, Inc., on behalf of and as agent for inventor

**Full name and title of Authorized Officer of Assignee** Michael G. Douglas, Vice-President and Chief Scientific Officer of Novactyl, Inc.

**Signature of Authorized Officer of Assignee** 

**Date** 6-21-01

**Assignee's Post Office Address** 1816 Lackland Hill Parkway, Suite 220, St. Louis, MO 63146

**State of Incorporation** Delaware



MAY 25, 2001



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

PTAS

THOMPSON COBURN, LLP  
CAROLINE G. CHICOINE  
ONE FIRSTAR PLAZA  
ST. LOUIS, MO 63101



\*101646793A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 02/15/2001

REEL/FRAME: 011602/0755  
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

FERNANDEZ-POL, JOSE ALBERTO

DOC DATE: 02/01/2000

ASSIGNEE:

NOVACTYL, INC.  
10803 OLIVE BOULEVARD, SUITE 200  
ST. LOUIS, MISSOURI 63141

SERIAL NUMBER: 09784631  
PATENT NUMBER:

FILING DATE: 02/15/2001  
ISSUE DATE:

JOANN STEWART, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

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JUN 01 2001

deb [signature]

03-23-2001

cket No.: 42108.0106



IT

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Tab settings

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To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):  
Jose Alberto Fernandez-Pol

2/15/01

Additional names(s) of conveying party(ies) ☐ Yes ☒ No

3. Nature of conveyance:

- ☒ Assignment ☐ Merger  
☐ Security Agreement ☐ Change of Name  
☐ Other \_\_\_\_\_

Execution Date: 2/1/2000

2. Name and address of receiving party(ies):

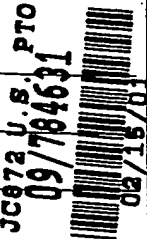
Name: Novactyl, Inc.

Internal Address: \_\_\_\_\_

Street Address: 10803 Olive Blvd., Ste. 200

City: St. Louis, State: MO ZIP: 63141

Additional name(s) & address(es) attached? ☐ Yes ☒ No



4. Application number(s) or registration numbers(s):

If this document is being filed together with a new application, the execution date of the application is: 2/15/01

A. Patent Application No.(s)

B. Patent No.(s)

09284631

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Caroline G. Chicoine

Internal Address: Thompson Coburn LLP

Street Address: One Firststar Plaza

City: St. Louis, State: MO ZIP: 63101

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41):.....\$ 40.00

- ☐ Enclosed - Any excess or insufficiency should be credited or debited to deposit account  
☒ Authorized to be charged to deposit account

8. Deposit account number:

20-0823

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Caroline G. Chicoine

Name of Person Signing

Signature

2/15/01

Date

Total number of pages including cover sheet, attachments, and document: 5

EXHIBIT B  
A S S I G N M E N T

WHEREAS, I, JOSE ALBERTO FERNANDEZ-POL, whose post office address is 437 Hunters Hill Dr., Chesterfield, Missouri 63017-3446, am the owner of various Proprietary Technologies related to human and animal topical and systemic treatments and methods, such Proprietary Technologies being identified by the issued patents and pending applications set forth in Schedule A attached. ("PROPRIETARY TECHNOLOGIES")

WHEREAS, NOVACTYL, INC., a Delaware Corporation is desirous of acquiring the entire right, title and interest in and to the PROPRIETARY TECHNOLOGIES.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, I, said JOSE ALBERTO FERNANDEZ-POL do hereby sell, assign, transfer and set over unto said NOVACTYL, INC, the entire right, title and interest in and to said PROPRIETARY TECHNOLOGIES and in and to all Letters Patent and patent rights which may be granted or issued for said improvements, in the United States and all foreign countries, and any reissue, reexamination, continuation, continuation-in-part, division, or extension thereof, the same to be held and enjoyed by said NOVACTYL, INC, a corporation, its successors and assigns, as fully and entirely as the same would have been held and enjoyed by me if this Assignment and sale had not been made; and I agree to execute such further applications, powers of attorney, assignments and other documents as may be necessary or desirable to effectuate this Agreement.

AND I DO HEREBY authorize and request the Commissioner of Patents and Trademarks to transfer all right, title and interest in the PROPRIETARY TECHNOLOGIES to said NOVACTYL, INC., a corporation, and for its successors and assigns. Jose Alberto Fernandez-Pol shall retain a reversionary interest in the PROPRIETARY TECHNOLOGIES which shall become effective and cause reversion of the PROPRIETARY TECHNOLOGIES only in the event NOVACTYL, INC. does not obtain Food and Drug Administration (FDA) approval of at least one (1) product included within the scope of the PROPRIETARY TECHNOLOGIES. Upon such FDA approval, the reversionary interest shall automatically terminate without further action in the part of the parties hereto.

Date: 2-1-00

  
JOSE ALBERTO FERNANDEZ-POL

STATE OF MISSOURI     )  
                                  ) SS.  
COUNTY OF ST. LOUIS    )

On this 1<sup>st</sup> day of February, 2000, before me, a Notary Public, personally appeared JOSE ALBERTO FERNANDEZ-POL, to me known to be the person named in and who executed the above Assignment, and acknowledged to me that he executed the same for the uses and purposes therein mentioned, as his own free act and deed.

  
Notary Public

CHANDRA L. DALTON  
NOTARY PUBLIC NOTARY SEAL  
STATE OF MISSOURI ST. LOUIS COUNTY  
My Commission Expires: Sept. 30, 2002

**SCHEDULE A**

Docket No./Country	Title	Patent No.	Issue Date	Serial No.	Filing Date
FERJ 6097US	ANTIVIRAL AGENT	5767135	6/16/1998	08/581351	12/29/1995
FERJ 6097 ARGENTINA	ANTIVIRAL AGENT			P970106952	3/12/1997
FERJ 6097 AUSTRIA	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 BELGIUM	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 CANADA	ANTIVIRAL AGENT			2241213 (WO)	12/20/1996
FERJ 6097 DENMARK	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 FINLAND	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 FRANCE	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 GERMANY	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 GREECE	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 IRELAND	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 ITALY	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 MONACO	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 NETHERLANDS (HOLLAND)	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996

Docket No./Country	Title	Patent No.	Issue Date	Serial No.	Filing Date
FERJ 6097 PORTUGAL	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 SPAIN	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 SWEDEN	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 SWITZERLAND	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 6097 UNITED KINGDOM	ANTIVIRAL AGENT			969450352 (EP)	12/20/1996
FERJ 7028 U.S.	ANTIPROLIFERATIVE, ANTIINFECTIVE, ANTIINFLAMMATORY, AUTOLOGOUS IMMUNIZATION AGENT AND METHOD			09/127620	8/1/1998
FERJ 7386 U.S.	PHARMACOLOGICAL CHELATING AGENT			60/182,608	2/15/2000

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